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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,050	01/23/2004	Dinah B. Quiachon	ENDOV-67115	7611

24201 7590 07/22/2005

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EXAMINER

BLANCO, JAVIER G

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,050

Applicant(s)

QUIACHON ET AL.

Examiner

Javier G. Blanco

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Preliminary Amendment

1. Applicants' cancellation of claims 1-32 in the reply filed on January 23, 2004 is acknowledged.
2. Applicants' addition of claims 33-45 in the reply filed on January 23, 2004 is acknowledged.

Election/Restrictions

3. Applicants' election of **Bifurcated graft: Species B** (Figures 37-39), **Attachment Means: Species B** (Figures 40 and 41), and **Means for resisting kinking: Species B** (medial, internal attachment system) in the reply filed on May 3, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Pending claims 33-45 are readable on the elected subject matter.

Priority

4. Claim 33 is directed to subject matter that was introduced for the first time in parent application 08/241,476 (now US 5,628,783), filed May 12, 1994. Thus, the effective filing date for the subject matter of claim 33 is May 12, 1994.

Specification

5. The disclosure is objected to because of the following informality: please update the "CROSS-REFERENCE TO RELATED APPLICATIONS" section (i.e., --now US 6,682,557--).
Appropriate correction is required.

Claim Objections

6. Claims 36-39 are objected to because of the following informalities:
a. Regarding each of claim 36-39, please substitute "further comprising" with --comprising--.
Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 33-35 and 42-45 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rockey (US 4, 501,264 A).

Referring to Figures 1 and 8 (particularly Figure 8), Rockey discloses a bifurcated graft comprising a bifurcated body including a trunk (25), a first leg (25A), and a second leg (25B); a first ring attached to the trunk (Figure 8: ring balloon 33); a second ring and a third ring each

Art Unit: 3738

attached to the first leg (Figure 8: ring balloons 33 attached to branch 25A); and a fourth ring and a fifth ring each attached to the second leg (Figure 8: ring balloons 33 attached to branch 25B).

Ring balloons 33 are configured within the internal surface of the graft (see Figure 8: see column 5, lines 18-31). Second ring and third ring are spaced longitudinally along the first leg (see Figure 8). Fourth ring and fifth ring are spaced longitudinally along the second leg (see Figure 8).

9. Claims 33-38 and 41-45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kubo et al. (US 5,236,447 A).

Referring to Figures 1, 2, 5, and 6 (particularly Figure 5), Kubo et al. disclose a bifurcated graft (e.g., fabric; see entire document) comprising a bifurcated body including a trunk (4), a first leg (6), and a second leg (6'). See column 7, lines 15-51. A first ring attached to the trunk (ring portion 2); a second ring and a third ring each attached to the first leg (ring portions 2); and a fourth ring and a fifth ring each attached to the second leg (ring portions 2). Ring portions 2 are configured either within the internal surface of the graft or on the outside surface of the graft (see column 7, lines 40-43 and lines 52-53; column 8, lines 5-7). The first leg is longer than the second leg (see column 7, lines 36-39). Second ring and third ring are spaced longitudinally along the first leg (see Figure 5). Fourth ring and fifth ring are spaced longitudinally along the second leg (see Figure 5). Each of the first, second, and fourth rings comprises at least one vessel wall-engaging member (see column 7, lines 15-51; see entire document).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al. (US 5,236,447 A) in view of Lazarus et al. (US 5,275,622 A) and Chuter et al. (US 5,720,776 A).

Kubo et al. disclose the invention as claimed except for particularly disclosing each rings as comprising a plurality of alternating apices, which apices comprise a helical coil. However, this is already known in the art. For example, each of Lazarus et al. '622, and Chuter et al. '776 discloses bifurcated grafts comprising rings having a plurality of alternating apices, which apices comprise a helical coil (see Figures) in order to improve and/or reinforce the mechanical attachment of the bifurcated grafts to a vessel wall (see entire documents). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have combined the teaching of a bifurcated graft comprising rings having a plurality of alternating apices, which apices comprise a helical coil, as taught by Lazarus et al. '622 and Chuter et al. '776, with the bifurcated graft of Kubo et al., in order to improve and/or reinforce the mechanical attachment of the bifurcated grafts to a vessel wall.

Art Unit: 3738

Conclusion

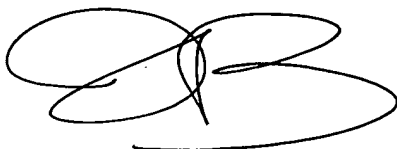
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Rhodes (US 5,122,154 A), Lee (US 5,123,917 A), Pinheiro (US 5,851,228 A), Lois (US 5,851,232 A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB

July 18, 2005



David H. Willse
Primary Examiner